

RP 10/3 ACK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KASSIA DIOMANDE

Plaintiffs, Pro Se v.

THE CITY OF NEW YORK, NEW
YORK CITY POLICE DEPARTMENT
POLICE OFFICER MICHEAL
FISCHER tax# 957589, P.O.
ANDREW WINTER tax# 961455, P.O.
JASMINE WILLIAMS tax# 959371,
SERGEANT JOSE DIFILIPPI tax#
945177, SERGEANT STEVEN KELLS
tax# 917813, LIEUTENANT
JOHN/JANE DOE SCHULTZ
unknown tax ID/BADGE#,
SERGEANT JOHN/JANE TARNOK
unknown tax ID/BADGE#, Unknown
to Plaintiffs but known to Defendants,
Individually and in his Official
capacity as a Police Officer of the
New York City Police Department, and
"JOHN DOE unknown tax ID ,
JOHN DOE unknown tax ID, JOHN
DOE unknown tax ID, JOHN DOE
unknown tax ID, JANE DOE unknown
tax ID , JANE DOE unknown tax ID",
names being fictitious intended to be
Officers, Police Officers, agents,
servants, licensees, employees of the
New York City Police Department,
each individually and/or in their
respective official capacities with the
City of New York and/or the New York
City Police Department,

Defendants.

DOCKET NO.: 20-CV-5570(RPK)(LB)

Amended Complaint

CIVIL ACTION

COMPLAINT

AND

JURY DEMAND:

(1) TITLE VII OF THE CIVIL RIGHTS
ACT OF 1964;

[JURY TRIAL DEMANDED]



Plaintiff Kassia Diomande, 70 Malcolm x Blvd, New York, New York 10026, allege the following:

I. NATURE OF THE ACTION

This is an action seeking compensation and damages pursuant to 42 U.S.C. excessive force, unlawful entry and false arrest; Fourth Amendment Violation for unlawful search and seizure of Plaintiff's persons/Body, false imprisonment, false arrest, violation of civil rights, assault, harassment, abuse of authority, deviation and/or gross deviation from proper procedures, malic, recklessness, carelessness, official misconduct, violation of the Plaintiff's Federal Rights Pursuant to Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C section 1983 for damages sustained by Plaintiff Kassia Diomande, each individually, as direct and proximate result of unconstitutional use of excessive and /or unnecessary force, false imprisonment and false arrest against the above named Plaintiff. This action also seeks to recover punitive damages against the Defendants herein.

Based upon information and belief on or about November 14, 2017 the Plaintiff Kassia Diomande resided at 119-45-147street, Jamaica, New York 11436. At all relevant times herein mentioned, Plaintiffs are of a minority race/national origin/ethnicity/color as she is an African American/Indian/West Indian descent, race, color, ethnicity and /or national origin.

That on or about November 14, 2017, the subject premises had been illegally been entered by the Defendants. Camera surveillance was captured within the incident unlawful actions of the Defendant New York City Police Officer Andrew Winter and Micheal Fischer individually and acting in concert with Defendants "JOHN AND JANE DOES" names being fictitious intended to be

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Police officers, agents, servant, licensees, and/or employee of the New York Police Department, each individually and/or in their respective official capacities with the City of New York, and/or the New York City Police Department, while acting under color of law, used a tool to pick lock the door of the Plaintiff's property and without a warrant, probable cause or exigent circumstances, to gain entrance/access to/inside same and, after unlawfully breaking into the Plaintiff's property, and without lawful permission and/or other authority and without being lawfully authorized by anyone, including the Plaintiffs, to enter the subject premises and/or to pick lock the door that secured the door to the Plaintiff premises, the Defendants Andrew Winter and Michael Fischer, Individually and acting in concert with Defendants "JOHN AND JANE DOES" unlawfully entered onto the Plaintiff premises unlawfully trespassed onto and in the subject property/premises without a warrant, without probable cause and without exigent circumstances.

At the time the Defendants Andrew Winter and Michael Fischer, individually and acting in concert with Defendants "JOHN AND JANE DOES", law, all acting within the scope of their employment with Defendant the CITY OF NEW YORK as New York City Police Officers/agent/employees, upon information and belief, were at all relevant times herein mentioned, of the Caucasian/White race.

On November 14, 2017, Plaintiff made a stop at her resident 119-45-147st, Jamaica, New York 11436. At the time Plaintiff was employed and had taken a lunch break at the end of her shift. Plaintiff entered her home using her key and shortly after the Defendants Andrew Winter and Michael Fischer and individually and acting in concert with Defendants "JOHN AND JANE DOES"

names being fictitious intended to be Police officers, agents, servant, licensees, and/or employee of the New York Police Department, each individually and/or in their respective official capacities with the City of New York, and/or the New York City Police Department, While acting under color of law "JOHN AND JANE DOES" illegally entered her home after Defendants were ask by the Plaintiff to produce a warrant. Plaintiff was lawfully seated in her living room and was not about to and had not engaged in any criminal misconduct nor did she present any form of threat to the Defendants.

Despite that having any lawful basis and/or authority to touch and/or cease the person of Plaintiff, Kassia Diomande, The Defendants Andrew Winter and Micheal Fischer, individually and acting in concert with each other and while acting under color of law, all acting within the scope of their employment with Defendent the CITY OF NEW YORK as New York Police Officers/agent/employees, forcibly grabbed Plaintiff Kassia Diomande, slammed her against the wall in her home an P.O "JOHN DOE" put his arm around Plaintiff body and head, while P.O "JOHN DOE" and Andrew Winter grabbed Plaintiff Kassia Diomande, twisted her arm, and with use of overwhelming and unnecessary and excessive force, dragged Plaintiff Kassia Diomande downstairs from her private residence her premises a distance of approximately fifteen to twenty yards without any care for the safety or well-being the Plaintiff Kassia Diomande and as result of the foregoing the Plaintiff Kassia Diomande sustained injuries to her persons including but not limited to: cuts, laceration, contusion, sprain and bruises to his person and to otherwise sustained serious injuries and Psychological/emotional injuries there from.

Defendants Andrew Winter and Micheal Fischer individually and acting in concert with Defendants "JOHN AND JANE DOES" names being

fictitious intended to be Police officers, agents, servant, licensees, and/or employee of the New York Police Department, each individually and /or in their respective official capacities with the City of New York, and/or the New York City Police Department, While acting under color of law delayed Due Process to Plaintiff Kassia Diomande having a ambulance appear and informed the paramedics that Plaintiff Kassia Diomande is Mental ill, Defendant shackled Plaintiff Kassia Diomande foot, The Defendants Andrew Winter and Micheal Fischer and "JOHN AND JANE DOES" and Paramedics than dragged Plaintiff Kassia Diomande twisted her arm, and with use of overwhelming and unnecessary and excessive force, dragged her and strapped her on a stretcher into the ambulance. At the time Plaintiff was pregnant. A distance of approximately six to ten yards without any care for the safety or well-being the Plaintiff Kassia Diomande and as result of the foregoing the Plaintiff Kassia Diomande sustained injuries to her persons including but not limited to: cuts, laceration, contusion, sprain and bruises to his person and to otherwise sustained serious injuries and Psychological/emotional injuries, and threaten miscarriage.

Plaintiff, Kassia Diomande was brought to Jamaica hospital and was denied medical attention and from using the restroom on her own. Plaintiff Kassia Diomande was forced to use a Medical basin to urinate. Defendant Jasmine Williams searched Plaintiff. Defendant Andrew Winter and Micheal Fischer and individually and acting in concert with Defendants "JOHN AND JANE DOES" names being fictitious intended to be Police officers, agents, servant, licensees, and/or employee of the New York Police Department, each individually and /or in their respective official capacities with the City of New York, and/or the New York City Police Department, While acting under color of law "JOHN AND JANE DOES" kept Plaintiff in a cornered space until approximately 4am and not one

doctor came to observed her condition but a psychiatrist for the alleged Mental illness the Defendants Andrew White and Micheal Fischer and "JOHN AND JANE DOES" claimed. At the time Plaintiff was pregnant and without any care for the safety or well-being the Plaintiff Kassia Diomande were injured as result of the foregoing the Plaintiff Kassia Diomande sustained injuries to her persons including but not limited to: cuts, laceration, contusion, sprain and bruises to his person and to otherwise sustain serious injuries and Psychological/emotional injuries, and threaten miscarriage.

Defendants Andrew Winter and Micheal Fischer and individually and acting in concert with Defendants "JOHN AND JANE DOES" names being fictitious intended to be Police officers, agents, servant, licensees, and/or employee of the New York Police Department, each individually and /or in their respective official capacities with the City of New York, and/or the New York City Police Department, While acting under color of law "JOHN AND JANE DOES" brought Plaintiff to the 113 Precinct. Where Plaintiff was refused a phone call, refused by "JOHN AND JANE DOES" of use for the bathroom and was further assaulted by "JOHN AND JANE DOES" for two consecutive days in their custody.

Defendants Andrew Winter and Micheal Fischer individually and acting in concert with Defendants "JOHN AND JANE DOES" names being fictitious intended to be Police officers, agents, servant, licensees, and/or employee of the New York Police Department, each individually and /or in their respective official capacities with the City of New York, and/or the New York City Police Department, While acting under color of law, further assaulted Plaintiff Kassia Diomande in their custody tortured her using shackled by consistently pulling her foot while seated, refused her food, water and use of the restroom. Defendants 'JOHN AND JANE DOES" jumped on top her using excessive force than carried

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Plaintiff Kassia Diomande hanging from her arms in the opposite position and
 hanging from the shackles chains carried into a private cell area. Defendants
 Andrew Winter and Micheal Fischer and "JOHN AND JANE DOES" than kicked
 her body repeatedly in the head while she was down on the floor. Defendants
 "JOHN AND JANE DOES" act in concert individually and acting in concert with
 Defendants. At the time Plaintiff was pregnant and without any care for the safety
 or well-being the Plaintiff Kassia Diomande and as result of the foregoing the
 Plaintiff Kassia Diomande sustained injuries to her persons including but not
 limited to: cuts, laceration, contusion, sprain and bruises to his person and to
 otherwise sustain serious injuries and Psychological/emotional injuries, and
 threaten miscarriage.
 Defendants Andrew Winter and Micheal Fischer individually and
 acting in concert with Defendants "JOHN AND JANE DOES" names being
 fictitious intended to be Police officers, agents, servant, licensees, and/or employee
 of the New York Police Department, each individually and/or in their respective
 official capacities with the City of New York, and/or the New York City Police
 Department, While acting under color of law "JOHN AND JANE DOES" refused
 to read Plaintiff's Civil rights, and state what she was being charged with or provide
 the warrant for entry into her residence.
 Defendants Andrew Winter and Micheal Fischer, individually and
 acting in concert with Defendants "JOHN AND JANE DOES", individually and
 acting in concert with each other and while acting under color of law, all acting
 within the scope of their employment with Defendants the CITY OF NEW YORK
 as New York City Police officers/agents/employees, after forcibly and with the use
 of excessive force removing the Plaintiff from her premises against the Plaintiff's
 individually and respective will, then falsely arrested her with use of forcible

restrained, detained, held the Plaintiffs against her will, assaulted, battered, shackled her foot, falsely imprisoned and falsely arrested Plaintiff while they harassed, slammed, kicked, grabbed, shackled, tortured, abused, pushed, shoved, hit, struck, battered, imprisoned, used excessive force against the Plaintiff based upon her racial animus and discrimination against Plaintiffs for Plaintiff's race/color/national origin/ethnicity.

That said Defendants, individually and while acting in concert with each other and acting under the color of law, all acting within the scope of their employment with Defendants the CITY OF NEW YORK as New York City Police Officers/employees/agents, in an intentional effort to justify their unlawful conduct that they caused to be visited upon the Plaintiffs, thereafter then made a false and malicious allegations against the Plaintiff by wrongfully and unlawfully claiming/charging that the Plaintiff had violated the law and unlawfully arrested the Plaintiff causing the Plaintiff to be arrested, kept in 113 prescient for (3)three days than booked, processed, labeled criminal defendants, arraigned, prosecuted and forced her to have to go to court for the false allegation made against her from November 14, 2017 to April 22, 2019 by said Defendants.

That as a direct and proximate result of said Defendants, individually and while acting in concert with each other and while acting under the color of law, all acting within the scope of their employment with CITY OF NEW YORK as New York City Police Officers/employees/agent, in engaging in unlawful conduct, actions and /or omissions against the Plaintiff, said Defendants , individually and while acting in concert with each other and while acting under the color of law caused Plaintiff individually to suffer and sustain serious personal, physical and emotional/psychological injuries and damages including, not limited to: cut, contusions, lacerations, swelling, bruising, bleeding, threaten miscarriage,

injury to unborn child, injury to Plaintiff head, body, face, arms, foot, loss of employment, pain and suffering, mental anguish, shock, fear, depression, anxiety, Post-Traumatic Stress Disorder, (PTSD), psychological injuries, psychological distress, and emotional distress and incur cost and expenses including personal legal fees and are otherwise damaged/injured herein.

On or about November 14, 2020, the defendants POLICE OFFICER ANDREW WINTER Badge/tax# 961455\ and MICHEAL FISCHER Badge/tax# 957589 known to Plaintiff, and New York City Police Officer "JOHN AND JANE DOES", names being fictitious, intended to be employee agents, servants, licensees, offices/employees/agents, each individually and/or in their official capacities with the City of New York/New York City Police Department, all acting in concert with the other, all acting within the scope of their employment with Defendants the CITY OF NEW YORK as New York City Police Officers/agents/employees, wrongfully/falsefully charged, arrest and/or imprisoned Plaintiff KASSIA DIOMANDE for Violations of Penal Law Sections (two) Counts 220.06 and 220.03 of Criminal Possession Control Substance-7th, 195.05 Obstruct Governmental Function and Resisting Arrest, and violation of the Penal Law Section 240.20, Disorderly Conduct. After over year and half of Plaintiffs waiting for a trial, Defendants failed to prove their burden and dismissed all charges.

II. THE PARTIES

1. That at all times herein mentioned, Plaintiff KASSIA DIOMANDE was and still is a resident of the State of New York. That at all times herein mentioned, Defendants THE CITY OF NEW YORK was and is a municipal corporation existing by and under the laws of the State of New York. That at all times herein mentioned, Defendants THE CITY OF NEW YORK is the public employer of Defendants New York City Police Department Police Officer

ANDREW WINTER Badge/tax# 961455 and MICHEAL FISCHER Badge/tax# 957589 known to Plaintiff, and New York City Police Officer "JOHN AND JANE DOES", named herein.

2. That all times herein mentioned, Defendant NEW YORK CITY POLICE DEPARTMENT Police Officer ANDREW WINTER Badge/ tax# 961455 and MICHEAL FISCHER Badge/tax# 957589 known to Plaintiff, and New York City Police Officer "JOHN AND JANE DOES", names being fictitious, intended to be employee agents, servants, licensees, offices/employees/agents, each individually and/or in their official capacities with the City of New York/New York City Police Department.

3. Defendants "John Does", and "Jane Does", names being fictitious, intended to be employee agents, servants, licensees, offices/employees/agents, each individually and/or in their official capacities with the City of New York/New York City Police Department, and are alleged to have acted all in concert with the order with the other and all within the scope of their employment with Defendants the CITY OF NEW YORK as employees/agents/Police Officers of the New York Police Department.

4. In addition to the facts alleged in the foregoing paragraphs is sued in his/her individual and official capacity; acted under the color of law and within the scope of his/her employment, to wit: under color of the statutes, ordinances, regulations. policies, customs and usages of the State Of New York and/or the City of New York:

5. Defendant, New York City Department Police Officer ANDREW WINTER Badge/tax# 961455 and MICHEAL FISCHER Badge/tax# 957589 known to Plaintiff, but known to the Defendant, was , at all relevant times, a Police Officer with/of the New York City Police Department and is sued herein

individually and in his/her official capacity as a New York City Police Officer with the New York City Police Department Defendants , "JOHN AND JANE DOES", names being fictitious, intended to be employee agents, servants, licensees, offices/employees/agents, each individually and/or in their official capacities with the City of New York/New York City Police Department, all acting in concert with the other, all acting within the scope of their employment with Defendants the CITY OF NEW YORK as New York City Police Officers/agents/employees and are being sued herein individually and in their official capacities with the City of New York and /or the New York City Police Department.

6. That at all times herein mentioned, Defendant, the City of New York, owned, managed, controlled, maintained, employed and/or supervised Defendant POLICE OFFICER ANDREW WINTER Badge/ tax# 961455 and MICHEAL FISCHER Badge/tax# 957589 known to Plaintiff, and New York City Police Officer "JOHN AND JANE DOES", names being fictitious, intended to be employee agents, servants, licensees, offices/employees/agents, each individually and/or in their official capacities with the City of New York/New York City Police Department, all acting in concert with the other, all acting within the scope of their employment with Defendants the CITY OF NEW YORK as New York City Police Officers/agents/employees.

7. That on or about November 14, 2017, and at all times herein mentioned , Defendants, THE CITY OF NEW YORK owned, operated, managed, controlled, governed, maintained, trained, oversaw, employed and/or supervised Defendants POLICE OFFICER ANDREW WINTER Badge/ tax# 961455 and MICHEAL FISCHER Badge/tax# 957589 known to Plaintiff, and New York City Police Officer "JOHN AND JANE DOES", names being fictitious, intended to be employee agents, servants, licensees, offices/employees/agents, each individually

New York/New York City Police Department who, At all times herein mentioned, acted in their individual capacities and/or acted within the scope of their employment/within their official capacities as Police officers of the City Of New York/New York City Police Department.

8. Qualified immunity is a federal doctrine, and can only be fully abolished by congress or Supreme Court, state and local governments still can act by creating a new "cause of action" This lets individuals sue government employees who violate their rights under the " State Constitution", while also banning qualified immunity as a defense.

9. On November 14,2017 the City of New York and the New York City Police Department performed acts while acting in concert with others they took their liberty to break Plaintiff's constitutional rights. Plaintiff was violated by THE CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT when they knowingly entered the home of Plaintiff without permission or a warrant breaking her fourth Amendment that protects Plaintiff from unreasonable search and seizure. All acting in the concert the officers Micheal Fischer, P.O Andrew Winter, Jasmine Williams, Sergeant Jose DeFilippo, Lieutenant John/Jane Doe Schultz John/Jane Tarnok, unknown Jane/John Doe, unknown tax ID/Badge numbers as they all acted in concert toward the Plaintiff .

10. THE NEW YORK CITY POLICE DEPARTMENT charged and arrested Plaintiff and THE CITY OF NEW YORK all acting in the concert the officers Micheal Fischer, P.O Andrew Winter, Jasmine Williams, Sergeant Jose DeFilippo, Lieutenant John/Jane Doe Schultz John/Jane Tarnok, unknown Jane/John Doe, unknown tax ID/Badge numbers as they all acted to prosecute Plaintiff and knowingly while acting in concert with others they all took their liberty to break Plaintiff fifth Amendment right of protection of right to life ,liberty and property when the NEW YORK CITY POLICE DEPARTMENT fail to produce a warrant to enter the home of Plaintiff and also refused to produce a warrant at hand at the time they were inside the premises of Plaintiff home.

11. Plaintiff was deprived from entering her home without good cause or reason by the THE NEW YORK POLICE DEPARTMENT and THE CITY OF NEW YORK. THE NEW YORK POLICE DEPARTMENT refused to show cause to Plaintiff while in her home. All

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acting in the concert the officers Micheal Fischer, P.O Andrew Winter, Jasmine Williams, Sergeant Jose DeFilippo, Lieutenant John/Jane Doe Schultz John/Jane Tarnok, unknown Jane/John Doe, unknown tax ID/Badge number as they all acted in concert toward the Plaintiff was deprived food and water, forced her to urinate in a hospital basin and even refused her a phone call to her family and job after her repeated request to The City of New York City Department and New York City Department.

12. All while held in the custody of THE CITY OF NEW YORK AND THE NEW YORK POLICE DEPARTMENT from November 14,2017 to November 17,2021. It's clear, under the first Section for Clause of the fourteen Amendment under Due Process Clause, Amendment 5-14 U.S constitution which prohibits arbitrary deprivation of life, liberty, or property” by the government except as authorized by law.

13. All acting in the concert the officers Micheal Fischer, P.O Andrew Winter, Jasmine Williams, Sergeant Jose DeFilippo, Lieutenant John/Jane Doe Schultz John/Jane Tarnok, unknown Jane/John Doe, unknown tax ID/Badge numbers as they all acted in concert Plaintiff suffered injury after officer's dragged her out of her home with hand cuff while pregnant, Shackles to her feet, kicked repeatedly inside of 113 precinct in Jamaica, Queens all acting in the concert the officers Micheal Fischer, P.O Andrew Winter, Jasmine Williams, Sergeant Jose DeFilippo, Lieutenant John/Jane Doe Schultz John/Jane Tarnok, unknown Jane/John Doe, unknown tax ID/Badge number as they all acted in concert toward the plaintiff breaking her Sixth Amendment Rights.

14. THE NEW YORK POLICE DEPARTMENT perform an act under a violation of a accused person under Amendment Sixth in a criminal case that all acting in concert the officers Micheal Fischer, P.O Andrew Winter, Jasmine Williams, Sergeant Jose DeFilippo, Lieutenant John/Jane Doe Schultz John/Jane Tarnok, unknown Jane/John Doe, unknown tax ID/Badge numbers as they all fully stayed to pursued with THE CITY OF NEW YORK at the time of her arrest on November 14,2017 to the dismissal of her case by CITY OF NEW YORK after she was beaten by NEW YORK CITY POLICE DEPARTMENT while pregnant at the 113 precinct in Jamaica Queens.

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15. Plaintiff accused her of crimes that she did not commit. THE CITY OF NEW YORK and THE NEW YORK POLICE DEPARTMENT knowingly was aware of the facts and circumstances of what they performed and led on about the Plaintiff for months was untrue. As the City of New York continued a prosecution in front of the State of New York with a false case against the Plaintiff breaking their immunity of their oath. The New York City Police Department was aware of the facts and circumstances of what they performed and led on to the State of New York with false written statements about the Plaintiff breaking their immunity.

111. EXHAUSTION OF ADMINISTRATIVE REMEDIES

Plaintiffs were interviewed on or about June of 2018 accompanied by her attorney. Plaintiff Attorney filed a claim to CCRB case number (#) 201709684 where they failed to investigate. A notice of claim was filed to (1) Centre Street, New York, NY 10007. To date The City of New York City Police Department failed to resolve this case.

1V. FACTUAL ALLEGATIONS

Pages 1-8 the Defendants acted in concert, and individually with each other and while acting under color of law all acting within the scope of their employment with Defendants THE CITY OF NEW YORK as NEW YORK CITY POLICE OFFICERS/agent/employee, upon information and belief, where at all relevant time herein.

V. FIRST CLAIM FOR RELIEF

Plaintiff claims for Defendants failure to intervene, Disorderly Conduct, Assault, Reckless Endangerment Under the Constitutional Rights Violations. Wrongful arrest, loss of income, Prejudicial Prosecution, Compensation and punitive damages.

SECOND CLAIM FOR RELIEF

Plaintiff claims on seeking damages by the New York City Police Department individual officers for violation of Plaintiff Constitutional Rights. 42 USC §1983

COMPLAINT FOR

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows; \$10,000,000.00 in damages, punitive damages, compensatory, damages and to grant any other relief that it deems just and proper.

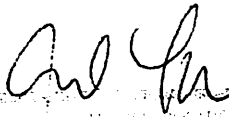
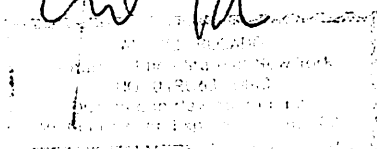
Date: September , 2020

Respectfully Submitted,

Kassia Diomande, Pro Se

By:

Kassia Diomande



9/30/21

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial on all causes of action and claims to which they have a right to a jury trial.

Date: September ,2021

COMPLAINT FOR

ATTN: Legislative Affairs Unit (NYC) city of New York

Legal Bureau.
Room 1406

Address: One police plaza
New York, NY 10038

Fax: 646-610-8395
Tele: 646-610-5400

*electronically Service
* Mail Service

ATTN: 113 Precinct
Commanding Officer: Deputy Inspector

Address: 167-02 Baileys Bld.
Jamaica, NY 11434
Brian J. Bohannon

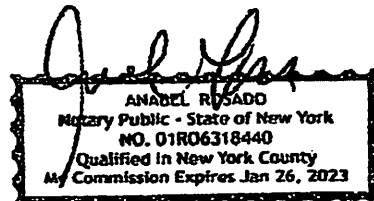
* Mail Service

I KASSIA DIOMANDE Affirm service was made
to parties above by Mail/electronically service.

Date: 11/12/20

Kassia Diomande

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
NOV 12 PM 4:18
2020
CLERK



11/12/20